

SENATE BILL 3358

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 57,
relative to certain authority of the Tennessee
alcoholic beverage commission.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 57-4-201(b)(3), is amended by
deleting subdivision (E) in its entirety and by substituting instead the following language:

(E)

(i) If a license is requested by an applicant who does not hold an existing license as a restaurant, it shall be a rebuttable presumption that the amount of gross sales from prepared food will be at least fifteen percent (15%) but not more than twenty percent (20%). An applicant may rebut the presumption by including with the applicant a business plan which indicates the gross sales from prepared food will be higher than twenty percent (20%). The commission shall advise each applicant of the applicant's right to include with the application a business plan which includes a projection of the amount of gross sales of prepared food and in such case, the commission shall assess the appropriate license fee based on such projection.

(ii) Any establishment applying for a renewal of its license as a limited service restaurant shall submit a sworn statement indicating the percentage of gross revenue for the previous year derived from food sales and the gross revenue derived from sales of alcoholic beverages. If the statement indicates the gross sales from prepared food was higher than the initial projection or higher than the amount actually sold in the previous year, requiring the payment of a lower licensure fee, the commission shall refund the difference to the licensee

within thirty (30) days of the date the statement is filed with the commission. If the statement indicates the gross sales from prepared food was less than the projection or than the amount actually sold in the previous year, requiring the payment of a higher licensure fee, the commission shall require the licensee to pay to the commission the difference between the licensure fee actually paid at the time the renewal fee is paid.

SECTION 2. Tennessee Code Annotated, Section 57-4-201(a), is amended by deleting subdivision (2) in its entirety and by substituting instead the following language:

(2)

(A) The commission shall make regulations, not inconsistent with this chapter, for clarifying, interpreting, carrying out and enforcing the terms of this chapter, for ensuring the proper and orderly conduct of business by licensees, and for regulating all advertising of alcoholic beverages by licensees.

(B) If regulations based on new statutory requirements must be promulgated, such regulations shall be promulgated within six (6) months of the date the act takes effect. Prior to submitting the rules to the attorney general and reporter for approval, the commission shall submit the proposed rules to the state and local government committees of each house for their review, comment and suggested changes. If the general assembly is not in session when such rules are submitted to the attorney general and reporter, the commission shall file a report with the state and local government committees of each house detailing the rationale for each rule.

(C) Until a rule is promulgated, if necessary to implement a specific law, the commission has no authority to take any action against a licensee for violation of the act which would result in a suspension or revocation of the license of such licensee or payment of a fine. If a fine has been imposed in violation of this subdivision within twelve (12) months prior to the effective date of this act, the commission shall refund the fine within thirty (30) days of the effective date of

this act or within thirty (30) days of the assessment of the fine, if the assessment is after the effective date of this act.

SECTION 3. Tennessee Code Annotated, Section 57-3-404(h)(2), is amended by adding the following language at the end of the subdivision:

The tastings may be held, at the option of the retail licensee without filing any notice with the commission, during the hours the retail licensee is open for business and no charge or fee may be assessed by the commission for a retail licensee to offer such complimentary samples. The commission may limit the size of each tasting to a specific ounce and the number of samples a customer may taste in any one day. In addition, the commission may limit the number of different products a licensee may offer for the complimentary samples in any one day.

SECTION 4. Tennessee Code Annotated, Section 57-1-208, is amended by deleting the section in its entirety.

SECTION 5. Tennessee Code Annotated, Section 57-1-210, is amended by deleting the section in its entirety.

SECTION 6. Tennessee Code Annotated, Section 57-1-209, is amended by designating the existing language as subsection (a) and by adding the following language as new subsection:

(b) If regulations based on new statutory requirements must be promulgated, such regulations shall be promulgated within six (6) months of the date the act takes effect. Prior to submitting the rules to the attorney general and reporter for approval, the commission shall submit the proposed rules to the state and local government committees of each house for their review, comment and suggested changes. If the general assembly is not in session when such rules are submitted to the attorney general and reporter, the commission shall file a

report with the state and local government committees of each house detailing the rationale for each rule.

(c) Until a rule is promulgated, if necessary to implement a specific law, the commission has no authority to take any action against a licensee for violation of the act which would result in a suspension or revocation of the license of such licensee or payment of a fine. If a fine has been imposed in violation of this subdivision within twelve (12) months prior to the effective date of this act, the commission shall refund the fine within thirty (30) days of the effective date of this act or within thirty (30) days of the assessment of the fine, if the assessment is after the effective date of this act. This provision applies specifically to any fines that may have been assessed related to complimentary tastings which were authorized pursuant to § 57-3-404(h)(2).

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.